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Sections 3480 and 4716, Revised Statutes.

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SECTIONS 3480 AND 4716, REVISED STATUTES.

SEPTEMBER 23, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3130.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 3130) to repeal in part and to limit sections 3480 and 4716 of the Revised Statutes of the United States, adopt the following report, made thereon during the first session of the Fifty-second Congress:

The Committee on the Judiciary, having had under consideration H. R. 4548, find that the bill is intended to suspend the operation of sections 3480 and 4716 of the Revised Statutes of the United States in two classes of cases only.

Soon after the war between the States—usually called the war of the rebellion—began the names of all persons resident in the seceding States who were receiving pensions were dropped from the pension roll on account of their supposed disloyalty, as they were citizens and residents of territory over which the so-called rebellion extended. These former pensioners are now very few in number, and are from 70 to 90 years of age. Such of them as could make the quantum of proof required as to their loyalty have been restored to the pension roll, with back pay. Very few could make such proof, because one of these sections requires that the proof must establish open acts and affirmative declarations of loyalty during the war. They require proof of acts which, had they been performed nearly anywhere within the limits of the then Confederate government, would have almost certainly insured the imprisonment of anyone who thus manifested his loyalty. Some of these were Union men at heart, who were prudent enough to be quiet, and to say nothing. These are as unable to make the proof required by these sections as those who were disloyal; while others, classed as disloyal, were mere sympathizers with the Confederacy, or aided and assisted their sons or kindred who were in the army.

The bill proposes to relieve these of proof of affirmative acts of loyalty and to allow them, in their old age and decrepitude, to be restored to the pension rolls, but gives them no back pay.

The other class which this bill is intended to relieve from proof of loyalty consists of the soldiers of the Mexican war and Indian wars in respect to obtaining bounty lands, which was granted to them by acts of Congress in 1850 and in 1855, long before the war commenced. There were but few of these who failed to obtain their land warrants before the war commenced, but there were some in every Southern State. These grants were *in presenti*; they vested rights which, though floats, when located on any of the public lands subject thereto, gave them precision and would have completed the title in the grantees. These rights were not confiscated by acts of rebellion, nor could Congress pass a law which would *proprio vigore* have that effect. It would have required a proceeding in court, and the sale of the land itself; and even then the title of the purchaser would continue only during the life of the rebellious owner. See the case of the heirs of Robert E. Lee *vs.* The United States, as to the Arlington estate.

These grants of bounty land were made in consideration of services rendered as soldiers by the grantees to the United States. At that time they were capable of taking—under no disability—and for subsequent acts it is not right to deprive them of the benefit of these grants.

The Supreme Court of the United States decided in *Padelford's case* (in 9 Wallace), and in *Klein's case*, and in *Pargoud's case* (both in 13 Wallace) that the proclama-

tion of amnesty and pardon issued by the President of the United States on the 25th day of December, 1868, relieved all persons, with the exceptions named therein, from any disability incurred by acts of disloyalty or rebellion, and when Congress tried to reverse this decision by a provision attached to an appropriation bill, denying to all persons the right to plead this proclamation of amnesty, the Supreme Court held the enactment to be void, because the President had the constitutional power to issue the proclamation, and that it completely wiped out the requirement of proof of loyalty, so that all citizens, whether they had been loyal or disloyal, were, by the proclamation, placed on the same footing before the courts of the United States. Notwithstanding these decisions of the highest judicial tribunal in the world, these sections are retained in the Revised Statutes, and are adhered to as rules of practice in the departments, thereby denying rights to people on account of disloyalty or the inability to prove loyalty affirmatively twenty-seven years after the close of the war, and many years after these decisions have been promulgated, the correctness of which nobody can question.

For these, among other reasons, your committee recommend the passage of the bill.

The bill passed the House without amendment in the Fifty-second Congress, but was not acted upon by the Senate.

Your committee recommend the passage of the bill for the same reasons which then existed.

